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New

## COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C §§ 1983

Name

RANDY  
CONK

(Last)

(First)

(Initial)

Prisoner Number

F73645 IC-20

Institutional Address

SAN QUENTIN STATE PRISON

BOX F 73645, SAN QUENTIN, CA, 94974

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RANDY CONK

(Enter the full name of plaintiff in this action.)

vs.

CV

08

1180

Case No.

(To be provided by the clerk of court)

WARDEN OF SAN QUENTIN

ROBERT AYERS, JR. % BIBBARD

% SANDOVAL AND % PROVEST

DOES 1 TO 100

(Enter the full name of the defendant(s) in this action))

COMPLAINT UNDER THE  
CIVIL RIGHTS ACT,  
42 U.S.C §§ 1983

[All questions on this complaint form must be answered in order for your action to proceed..]

I. Exhaustion of Administrative Remedies[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]A. Place of present confinement SAN QUENTIN PRISON

B. Is there a grievance procedure in this institution?

YES (✓) NO ( )

C. Did you present the facts in your complaint for review through the grievance procedure?

YES (✓) NO ( )

D. If your answer is YES, list the appeal number and the date and result of the

appeal at each level of review. If you did not pursue a certain level of appeal, explain why.

1. Informal appeal CSQ 2-08-00385  
MEDICAL STAFF COMPLAINT

2. First formal level PENDING

3. Second formal level PENDING

4. Third formal level PENDING

E. Is the last level to which you appealed the highest level of appeal available to you?

YES ( ) NO (✓)

F. If you did not present your claim for review through the grievance procedure, explain why. PENDING

## II. Parties

A. Write your name and your present address. Do the same for additional plaintiffs, if any.

KANDY CUNK F73645 SAN QUENTIN STATE PRISON  
P.O. BOX F73645 SAN QUENTIN, CALIFORNIA -  
94974

B. Write the full name of each defendant, his or her official position, and his or her

1 place of employment.

2 WARDEN ROBERT AYERS, JR. - SAN QUENTIN STATE PRISON  
3 CORRECTIONAL OFFICERS - B-BOARD; SANDOVAL, AND  
4 PROVOST - CALIFORNIA DEPARTMENT OF CORRECTION  
5 OFFICERS - SAN QUENTIN H-UNIT

6 III.

7 Statement of Claim

8 State here as briefly as possible the facts of your case. Be sure to describe how each  
9 defendant is involved and to include dates, when possible. Do not give any legal arguments or  
10 cite any cases or statutes. If you have more than one claim, each claim should be set forth in a  
11 separate numbered paragraph.

12  
13 SEE ATTACHED  
14 COMPLAINT  
15  
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25 IV. Relief

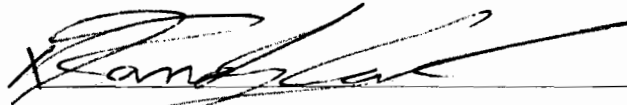
26 Your complaint cannot go forward unless you request specific relief. State briefly exactly  
27 what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

28 MONETARY, PUNITIVE, AND OTHER MONEY DAMAGES

1 FOR THERAPY FOR BACK SURGERY - FUTURE  
2 LOSS OF WAGES - ACCORDING TO PROOF  
3  
4  
5  
6

7 I declare under penalty of perjury that the foregoing is true and correct.  
8

9 Signed this 11 day of FEBRUARY, 2008  
10

11   
12

13 (Plaintiff's signature)  
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28

TO: UNITED STATES DISTRICT COURT  
FROM: Mr. RANDY Conk

FIRST and FORMOST I WOULD  
LIKE to Thank You for taking the time  
going through these Documentations  
I have prepared for the United  
States District Court.

PLEASE SEND ME back all of  
the Documents from these proceedings.  
Thank You and GOD BLESS

Sincerely

A handwritten signature in black ink, appearing to read "Randy Conk", written in a cursive style.

RANDY CONK F 73645 10-20  
 SAN QUENTIN STATE PRISON  
 P.O. BOX F 73645  
 SAN QUENTIN, CA. 94974

IN PRO SE

IN THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

RANDY CONK  
 PLAINTIFF,

VS.

WARDEN ROBERT AYERS JR.;  
 SAN QUENTIN STATE PRISON  
 CORRECTION OFFICER BOARD;  
 AND JO SANDOVAL; CORRECTION  
 OFFICER PROVOST.

DOES 1 TO 100

CASE NO. \_\_\_\_\_  
COMPLAINT UNDER CIVIL RIGHTS  
ACT 42 U.S.C. 1983

FEDERAL RULE PROCEDURE (4)  
CIVIL L. R. 4-1.

DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

COURTROOM: \_\_\_\_\_

### JURISDICTION

1. THIS ACTION IS BROUGHT PURSUANT TO 42 U.S.C. 1983,  
 THEREFORE JURISDICTION IS PROPER UNDER 28 U.S.C. 1331 AND  
 1334 BECAUSE IT ARISES UNDER THE LAWS OF THE UNITED  
 STATES.

### VENUE

2. VENUE IS PROPER AND APPROPRIATE IN THIS COURT BECAUSE  
 BOTH PLAINTIFF IS INCARCERATED AT SAN QUENTIN STATE PRISON  
 AND DEFENDANTS WORK IN THE DISTRICT OF MARIKIN COUNTY,  
 AND A SUBSTANTIAL AMOUNT OF ACTS AND OMISSIONS GIVING  
 RISE TO THIS LAWSUIT OCCURRED IN THIS DISTRICT.

### INTRODUCTION

3. THIS IS A CLAIM FOR DAMAGES AND INJUNCTIVE RELIEF  
 BROUGHT UNDER 1983, AGAINST PRISON OFFICIALS FOR THE  
 CIVIL VIOLATION OF EXCESSIVE FORCE UNDER CIVIL RIGHTS ACT.



INTRODUCTION

4. THESE VIOLATIONS OF PLAINTIFF'S STATE AND FEDERAL RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT THAT IS PROTECTED BY THE EIGHTH AMENDMENT OF THE UNITED STATES CONSTITUTIONS.

SPECIFICALLY AT ISSUE ARE PLAINTIFF'S RIGHT TO BE FREE FROM EXCESSIVE FORCE AND DELIBERATE INDIFFERENCE TO HIS HEALTH AND SAFETY AND 10R TO BE FREE FROM GROSS NEGLIGENCE. PLAINTIFF NOW COMPLAINS THAT ON OR ABOUT OCTOBER 2007, THAT SAN QUENTIN MENTAL HEALTH STAFF PSYCHIATRIST DR. DOWNS PRESCRIBED THE PLAINTIFF OXCARBAZEMINE, 300 MG TABLETS THAT CAUSE THE PLAINTIFF ADVERSE REACTIONS SUCH AS BUT NOT LIMITED TO BEING DIZZY, SWEATING AND LOSS OF HIS MEMORY AND NERVOUSNESS.

ON FRIDAY OCTOBER 19, 2007, WHILE PLAINTIFF WAS HOUSED IN H-UNIT DORIN, HE WAS STANDING UPON THE BLEACHERS OF B-SIDE. CORRECTIONAL OFFICER B. BORD APPROACHED ME AND SAID GET YOUR ASS DOWN; THEN HE PROCEEDED TO SPRAY ME WITH HIS MK-90 OC PEPPER SPRAY, THUS CAUSING SUDDEN BLINDNESS AND CAUSING ME TO FALL AND WITH WHICH CAUSED AN HERNIATED DISK IN MY LOWER BACK THAT NOW REQUIRES CONSTRUCTIVE SURGERY. PLAINTIFF PRAYS FOR DAMAGES AND OTHER SUCH RELIEF THAT MAY BE SOUGHT THOUGH THE COURT, SUCH AS LOSS OF LIMBS, AND FUTURE LOSS; HE HAS ALSO TRIED TO UTILIZE HIS RIGHT TO ADMINISTRATIVE PROCESS WHICH IS FUTILE.

PARTIES

5. PLAINTIFF RANDY CONK, IS A 46 YEAR OLD WHITE MALE, WHO IS A RESIDENT OF THE STATE OF CALIFORNIA, AND IS CURRENTLY INCARCERATED BY THE CALIFORNIA DEPARTMENT OF CORRECTIONS (CDC) AT SAN QUENTIN STATE PRISON, IN THE COUNTY OF MARIEN, CALIFORNIA, AT ALL TIMES MENTIONED IN THIS COMPLAINT, PLAINTIFF WAS A PRISONER WITHIN THE (CDC) SYSTEM.

6. AT ALL TIMES MENTIONED IN THIS COMPLAINT DEFENDANT ROBERT AYERS, JR. IS THE WARDEN OF SAN QUENTIN STATE PRISON AND IS HEREIN SUED IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES.

7. PLAINTIFF FURTHER ALLEGES THAT AT ALL TIMES MENTIONED IN THIS COMPLAINT, WARDEN AYERS WAS THE WARDEN OF SAN QUENTIN STATE PRISON, AND IS RESPONSIBLE FOR ALL SUPERVISION OF SUBORDINATE PERSONNEL AS WELL AS FOR THE SAFETY AND PROTECTION OF ALL INMATES AT SAN QUENTIN, INCLUDING INMATE RANDY CONK.

8. AT ALL TIMES MENTIONED IN THIS COMPLAINT OFFICER B. BOARD, SAN QUENTIN CORRECTION OFFICER IS SUED IN HIS OFFICIAL AND INDIVIDUAL CAPACITY FOR EXCESSIVE FORCE, USE OF PEPPER SPRAY M1K-90 OC. AND CORRECTIONAL OFFICER SANDOVAL IS ALSO SOLELY RESPONSIBLE FOR MY INJURIES REQUIRING BACK SURGERY AND OFFICER PRUDOT, ALL TIMES RELEVANTLY RESPONSIBLE FOR MY BACK INJURY, ARE ALL SUED BY SUCH FICTIONAL NAMES UNTIL THEIR TRUE NAMES CAN BE ASCERTAINED.



CLAIM FOR RELIEF

9. PLAINTIFF REFERS TO AND INCORPORATES BY REFERENCE HEREIN THE SAID ALLEGATIONS OF PARAGRAPHS 1 THROUGH 8, INCLUSIVE.

10. PLAINTIFF, MEDICAL CONDITION WORSENS DAILY WHERE HE MUST TAKE MORPHINE SULPHATE FOR PAIN BECAUSE OF OFFICER'S DELIBERATE INDIFFERENCE TO HIS HEALTH AND SAFETY.

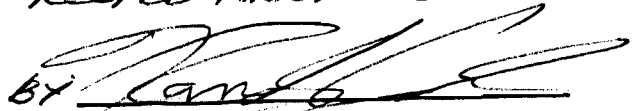
11. PLAINTIFF BACK INJURY, HEREIN DESCRIBED, THEREIN CONSTITUTES PHYSICIAN MEDICAL SURGERY, THEREFORE THIS SIGNIFICANTLY AFFECTS HIS DAILY MOVEMENTS, AND ACTIVITIES HEREIN PRISON

PRAYER FOR RELIEF.

1. MONETARY DAMAGES - ACCORDING TO PROOF
2. PUNITIVE DAMAGES - ACCORDING TO PROOF
3. FUTURE EARNINGS - ACCORDING TO PROOF
4. FUTURE THERAPY - AFTER PRISON
5. ANY OTHER RELIEF THE COURT DEEMS JUST AND NECESSARY FOR EXCESSIVE FORCE CLAIM.

DATED: 2/11/2008

RESPECTFULLY SUBMITTED

BY   
RANDY COOK F73645  
PLAINTIFF

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RANDY CONK

Plaintiff,

vs.

EMPLOYEES OF SAN  
QUENTIN PRISON

Defendant.

CASE NO. \_\_\_\_\_

PRISONER'S  
APPLICATION TO PROCEED  
IN FORMA PAUPERIS

I, RANDY CONK, declare, under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes \_\_\_ No ☒

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: 0 Net: 0

Employer: N/A

1 If the answer is "no," state the date of last employment and the amount of the gross and net  
 2 salary and wages per month which you received. (If you are imprisoned, specify the last  
 3 place of employment prior to imprisonment.)

4 N/A  
 5 X  
 6

7 2. Have you received, within the past twelve (12) months, any money from any of the  
 8 following sources:

9 a. Business, Profession or Yes \_\_\_ No ☒

10 self employment

11 b. Income from stocks, bonds, Yes \_\_\_ No ☒

12 or royalties?

13 c. Rent payments? Yes \_\_\_ No ☒

14 d. Pensions, annuities, or Yes \_\_\_ No ☒

15 life insurance payments?

16 e. Federal or State welfare payments, Yes \_\_\_ No ☒

17 Social Security or other govern-

18 ment source?

19 If the answer is "yes" to any of the above, describe each source of money and state the amount  
 20 received from each.

21 N/A  
 22 X

23 3. Are you married? Yes \_\_\_ No ☒

24 Spouse's Full Name: N/A

25 Spouse's Place of Employment: X

26 Spouse's Monthly Salary, Wages or Income:

27 Gross \$ 0 Net \$ 0

28 4. a. List amount you contribute to your spouse's support: \$ 0

b. List the persons other than your spouse who are dependent upon you for support and indicate how much you contribute toward their support. (NOTE: For minor children, list only their initials and ages. DO NOT INCLUDE THEIR NAMES.).

5. Do you own or are you buying a home? Yes \_\_\_ No ☒

Estimated Market Value: \$ 0 Amount of Mortgage: \$ 0

6. Do you own an automobile? Yes \_\_\_ No \_\_\_

Make 0 Year 0 Model 0

Is it financed? Yes \_\_\_ No ☒ If so, Total due: \$ 0

Monthly Payment: \$ 0

7. Do you have a bank account? Yes \_\_\_ No ☒ (Do not include account numbers.)

Name(s) and address(es) of bank: 0

Present balance(s): \$ 0

Do you own any cash? Yes \_\_\_ No ☒ Amount: \$ 0

Do you have any other assets? (If "yes," provide a description of each asset and its estimated market value.) Yes \_\_\_ No ☒

8. What are your monthly expenses?

Rent: \$ 0 Utilities: 0

Food: \$ 0 Clothing: 0

Charge Accounts:

Name of Account	Monthly Payment	Total Owed on This Acct.
<u>0</u>	\$ <u>0</u>	\$ <u>0</u>
<u>0</u>	\$ <u>0</u>	\$ <u>0</u>
<u>0</u>	\$ <u>0</u>	\$ <u>0</u>

9. Do

1 you have any other debts? (List current obligations, indicating amounts and to whom they are  
2 payable. Do not include account numbers.)

3 N/A  
4

5 10. Does the complaint which you are seeking to file raise claims that have been presented  
6 in other lawsuits? Yes \_\_\_ No ✓

7 Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in  
8 which they were filed.

9 N/A  
10

11 I consent to prison officials withdrawing from my trust account and paying to the court  
12 the initial partial filing fee and all installment payments required by the court.

13 I declare under the penalty of perjury that the foregoing is true and correct and  
14 understand that a false statement herein may result in the dismissal of my claims.

15  
16 2/11/2008

17 DATE

18 [Signature]  
19  
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SIGNATURE OF APPLICANT



REPORT ID: TS3030 .701

REPORT DATE: 12/31/07  
PAGE NO: 1CALIFORNIA DEPARTMENT OF CORRECTIONS  
SAN QUENTIN PRISON  
INMATE TRUST ACCOUNTING SYSTEM  
INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: OCT. 01, 2007 THRU DEC. 31, 2007

ACCOUNT NUMBER : F73645  
ACCOUNT NAME : CONK, RANDY  
PRIVILEGE GROUP: DBED/CELL NUMBER: C 1 00000000020S  
ACCOUNT TYPE: I

## TRUST ACCOUNT ACTIVITY

DATE	TRAN CODE	DESCRIPTION	COMMENT	CHECK NUM	DEPOSITS	WITHDRAWALS	BALANCE
10/01/2007		BEGINNING BALANCE					687.13
10/10	W536	COPAY CHARGE	1417/COPAY			5.00	682.13
10/15	FR01	CANTEEN RETUR	701491			3.36-	685.49
10/15	FC01	DRAW-FAC 1	1498/MAIN2			90.00	595.49
10/25	W536	COPAY CHARGE	1673/COPAY			5.00	590.49
11/07	FC01	DRAW-FAC 1	1847M1ST			45.00	545.49
11/07	FR01	CANTEEN RETUR	701865			90.00-	635.49
12/10	FC03	DRAW-FAC 3	2285/LUP1			45.00	590.49
12/10	FR01	CANTEEN RETUR	702299			45.00-	635.49
12/18	FC03	DRAW-FAC 3	2415LCKUP2			45.00	590.49
12/18	FR01	CANTEEN RETUR	702419			0.05-	590.54

## TRUST ACCOUNT SUMMARY

BEGINNING BALANCE	TOTAL DEPOSITS	TOTAL WITHDRAWALS	CURRENT BALANCE	HOLDS BALANCE	TRANSACTIONS TO BE POSTED
687.13	0.00	96.59	590.54	0.00	0.00

CURRENT  
AVAILABLE  
BALANCE

590.54

Case Number: \_\_\_\_\_

**CERTIFICATE OF FUNDS**  
**IN**  
**PRISONER'S ACCOUNT**

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of RANDY CONE for the last six months at

[prisoner name]

SAN JUAN PRISON where (s)he is confined.

[name of institution]

I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$ 0 and the average balance in the prisoner's account each month for the most recent 6-month period was \$ 0.

Dated: 2/11/08

\_\_\_\_\_  
[Authorized officer of the institution]